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EXAMINER

PARADISO, JOHN ROGER

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,451

Applicant(s)

BOCKER ET AL.

Examiner

John R. Paradiso

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group II in the reply filed on 6/9/2005 is acknowledged. The traversal is on the ground(s) that claims 4-11 belong with Group II. This is not found persuasive because claims 4-11 share the major features of claims 1-3 for diverting streams of bottles to other destinations, streams of narrower or larger proportion to the other.

The requirement is still deemed proper and is therefore made FINAL.

An action on Group II, claims 12-20, follows.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 15-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 15 line 4, it is unclear whether the "slide structure" slides or not.

In claim 15 lines 8-9 recite "slide structure is configured to cover at least a portion" but it is unclear what is being covered or what the portion is of.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 12-14 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by VAMVAKAS (US 3552537).

VAMVAKAS discloses a container filling plant conveyor arrangement with an input stream of conveyors (feed) that convey containers (C). A first conveyor (slow) and a second conveyor (fast) receive the containers at a first end (4) and convey them to the second end (5) where they diverge. A guide tip (36) separates the container stream and a guide (11) guides them on the conveyors. The conveyors are endless belt conveyors. A third conveyor (38) receives containers from the end of the first conveyor and a fourth conveyor (37) receives containers from the end of the second conveyor. Note that the direction of the containers are changed throughout each change of conveyor. (See VAMVAKAS, FIG. 3)

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over VAMVAKAS.

VAMVAKAS disclose a conveyor arrangement, as described above.

VAMVAKAS does not specifically disclose the guide as being made of sheet metal or the angle of divergence between the first and second conveyors as being 1.5 deg.

Regarding claim 15, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the guides of VAMVAKAS of sheet metal in order to provide a sturdy and durable structure, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416

Regarding claim 19, it would also have been obvious to one of ordinary skill in the art at the time the invention was made to make the angle of divergence 1.5 deg in order to provide an easy change of direction, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

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Reference Citations

8. The following prior art made of record and not relied upon is considered pertinent to Applicant's disclosure:

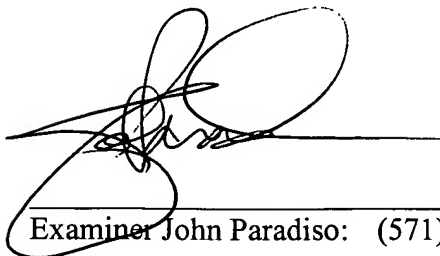
- BERGMANN discloses a conveyor arrangement with multiple conveyors and a diverter.
- GRECK discloses a conveyor arrangement with a diverter.
- CALLADINE ET AL discloses a conveyor arrangement with a diverter.
- LAZZAROTTI ET AL discloses a conveyor arrangement with a diverter.
- COLLINS ET AL discloses a conveyor arrangement with multiple conveyors and a diverter.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.



Examiner John Paradiso: (571) 272-4466

August 22, 2005

Additional Phone Numbers:

Supervisor Rinaldi Rada: (571) 308-7135

Fax (Official): (571) 273-8300

Fax (Direct to Examiner) (571) 273-4466 (Drafts only)